

REMARKS

Status of the Claims

Claims 1-3, 8-13, 19, 20, 29-31, 39, 46-57, 60 and 61 are in the application.

Claims 29-31, 39, 47-51, 53 and 54 have been rejected.

Claims 46 and 52 have been withdrawn

Applicants respectfully request that claims 29, 30 and 49 be amended and claims 46 and 52 be reconsidered

Upon entry of this amendment, claims 1-3, 8-13, 19, 20, 29-31, 39, 46-57, 60 and 61 will be pending.

Summary of the Amendment

Applicants request that claim 29, 30 and 49 each be amended to recite that the methods claimed therein "consist of" of the recited step. Upon entry of such amendment, the claims 29-31, 39 and 46-54 are in allowable condition, or, at least, in better condition for appeal. No new issues are raised and no new matter is added.

Claim Rejection Under 35 U.S.C. § 103

Claims 29-31, 39, 47-51, 53 and 54 stand rejected under 35 U.S.C. § 103 as being unpatentable over Silberg in view of US Patent No. 5,601,990 or over Silberg in view of US Patent No. 5,601,990 and further in view of Genbank Accession no. U51095.

It is asserted that because "Silberg teaches the 'possibility' of CDX1 being a marker" and the open term of "comprising" does not exclude other steps or tests for diagnosis in addition to CDX1" the subject matter of claims 29-31, 39, 47-51, 53 and 54 are obvious.

While applicants respectfully disagree, claims 29, 30 and 49 have been amended to replace the open term "comprising" with the more restricted phrase "consisting of". Accordingly, as amended to the rejection is obviated.

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Applicants respectfully request that the rejections of claims 29-31, 39, 47-51, 53 and 54 be withdrawn.

Withdrawal of Claims

Claims 46 and 52 have been withdrawn. No reason is provided for the withdrawal of the claims but it is presumed that in view of the earlier amendment, claims 46 and 52 are redundant.. Applicants respectfully note that upon entry of the amendment of claims 29 and 49, claims 46 and 52 will differ in scope from each of claims 1-3, 8-13, 19, 20, 55-57, 60 and 61. Accordingly, reconsideration is proper and hereby requested.

Conclusion

Upon entry of this amendment, claims 1-3, 8-13, 19, 20, 29-31, 39, 46-57, 60 and 61 will be in condition for allowance, or in better condition for appeal. Entry of this amendment is respectfully requested. A notice of allowance is earnestly solicited. Applicants invite the Examiner to contact the undersigned at 610.640.7820 to clarify any unresolved issues raised by this response.

The Commissioner is hereby authorized to charge any deficiencies of fees and credit of any overpayments to Deposit Account No. 50-0436.

Respectfully submitted,

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